

---

# Medicare Intermediary Manual Part 3 - Claims Process

---

Department of Health and  
Human Services (DHHS)  
HEALTH CARE FINANCING  
ADMINISTRATION (HCFA)

---

Transmittal 1829

Date: APRIL 9, 2001

---

## CHANGE REQUEST 1516

<u>HEADER SECTION NUMBERS</u>	<u>PAGES TO INSERT</u>	<u>PAGES TO DELETE</u>
3707 - 3707.1	7-25 - 7-26.1 (3 pp.)	7-25 - 7-26 (2 pp.)

**NEW/REVISED MATERIAL--*EFFECTIVE DATE: March 19, 2001***  
***IMPLEMENTATION DATE: No Later Than October 1, 2001***

Section 3707, Overpayments for Provider Services - General, updates the requirement that Medicare contractors conduct post-payment claims reviews to identify and recover payments for service dates billed after the beneficiary's date of death.

**DISCLAIMER:** The revision date and transmittal number only apply to the redlined material. All other material was previously published in the manual and is only being reprinted.

**These instructions should be implemented within your current operating budget.**

### Overpayments

#### 3707. OVERPAYMENTS FOR PROVIDER SERVICES - GENERAL

The term "overpayment" as used in this chapter refers to an incorrect payment for provider services made under Title XVIII and to payments made under the "guarantee of payment" provision. (See §§3714ff.)

Sections 3708 - 3708.6 contain the rules for determining liability for overpayments for items and services furnished beneficiaries.

Sections 3709 - 3714 contain instructions for the recovery of individual overpayment cases. Examples of individual overpayment cases are:

- o Payment for provider services after benefits have been exhausted, or where the individual was not entitled to benefits.
- o Incorrect application of the deductible or coinsurance.
- o Payment for noncovered items and services, including medically unnecessary services or custodial care furnished an individual.
- o Payment for items or services rendered after the beneficiary's date of death.

Contractors must conduct post-payment reviews to identify and recover payments with a billed date of service that is after the beneficiary's date of death. The identification of improperly paid claims must be performed at a minimum on an annual fiscal year basis. In addition, the associated overpayment recoupment must be performed as soon as administratively possible, but by no later than 1 year after identification.

**EXAMPLE:** Services rendered during fiscal year 2001 - contractors must identify improperly paid services and issue associated overpayment demand letters on or before October 1, 2002.

Contractors are not required to perform medical review for paid claims with dates of service after a beneficiary's date of death. The "post-payment claims review" should simply be an identification of the service that has been rendered after the beneficiaries date of death, and the subsequent notification to the provider that an improper payment has been made, for which recovery is now being sought.

At a minimum, contractors may identify deceased beneficiaries and associated improperly paid claims by using one of the following three options:

A. Utilize Beneficiary Eligibility Records Maintained Locally by Contractors.--This step would involve performing a data extract against local contractor eligibility files for all beneficiaries within the contractor's claims processing jurisdiction and identifying those beneficiaries who have died during the applicable fiscal year. Next, once the list of deceased beneficiaries has been identified, contractors would then need to utilize local claims processing history files to identify any services/claims containing a paid date of service that is after the CWF posted date of death.

B. Utilize Beneficiary Eligibility Records Maintained at the HCFA Data Center.--This step allows the contractors to utilize a HCFA created annual computer file of all deceased beneficiaries. On an annual calendar year basis, HCFA will create a computer file of all Medicare beneficiaries who died in the preceeding calendar year. This computer file will be available for contractors to download from the HCFA Data Center by January 31 of each year.

**EXAMPLE:** On January 31, 2001, HCFA created a computer file containing information on all Medicare beneficiaries who died during calendar year 2000. The annual computer file will be located on HCFA's mainframe computer and may be found using the following dataset naming convention "p@edb.#2011.deceased.benes.dodyear", where "year" is equal to the calendar year in which the beneficiaries died.

**EXAMPLE:** Computer file "p@edb.#2011.deceased.benes.dod2000" contains information on all Medicare beneficiaries who died during calendar year 2000. Next, contractors will download the computer file and then utilize local claims processing history files to identify any services/claims containing a paid date of service that is after the posted date of death.

**C. Utilize a HCFA Created Computer File of All Deceased Beneficiaries and Associated Improperly Paid Services.**--On an annual fiscal year basis, a data team within the HCFA Program Integrity Group will identify improperly paid claims containing service dates after the beneficiary's date of death. This computer file will identify the deceased beneficiary, their associated date of death, any paid services/claims containing a date of service that is after the beneficiary's date of death, and the Medicare contractor who paid the claim. Next, HCFA will provide a computer file to each Medicare contractor paying claims for services after the beneficiary's date of death. Contractors will then utilize the information to perform overpayment recoupments for the associated improperly paid services/claims.

Instructions for recovering the following types of overpayments from the provider are contained in Part II, §§2220-2231.3.

- o The provider fails to repay accelerated payments.
- o The provider fails to file cost reports.
- o You made excessive interim payments.
- o Payments on behalf of a large group of beneficiaries for noncovered services which the provider knew, or should have known, were not covered in accordance with the liability rules in §§3708.1 and 3708.2. (The rules on notifying beneficiaries where the overpayment was determined on the basis of a sample are in §3710.3.)

You are not liable for overpayments you make, in the absence of fraud or gross negligence on your part. However, once it is determined an overpayment has been made, the amount so determined is a debt owed to the United States Government. The Federal Claims Collection Act of 1966 requires each Federal agency to take timely and aggressive action to recover overpayments arising out of the activities of the agency.

The Medicare law contains two provisions (§§1870 and 1879) dealing with liability for, and recovery of, overpayments. These provisions are reflected in §§3708-3709.5. The following paragraphs summarize the provisions dealing with liability for overpayments to providers, and waiver of recovery of overpayments to providers and beneficiaries.

**D. Overpaid Provider Not Liable Because It Was Without Fault (§1870(b) of the Act).**--If a provider was without fault with respect to an overpayment it received (or is deemed without fault, in the absence of evidence to the contrary, because the overpayment was discovered subsequent to the third calendar year after the year of payment) it is not liable for the overpayment; therefore, it is not responsible for refunding the amount involved. You make these determinations. This provision forms the basis for policies and instructions in §§3708, 3708.1, 3708.2, 3708.4, and 3708.6.

**E. Beneficiary Liable for Overpayments to Provider Which Was Without Fault With Respect to the Overpayment (§1870(a) and (b) of the Act).**--If an overpaid provider was without fault, or is deemed without fault and therefore not liable for refund, liability shifts to the beneficiary. (If the overpayment involves medically unnecessary or custodial services, you may waive the beneficiary's liability for the overpayment in accordance with C below. If the overpayment does not involve medically unnecessary or custodial services, HCFA or SSA may waive recovery from the beneficiary in accordance with D below.) This provision forms the basis for the policies and instructions in §§3708.3, 3708.4 and 3708.6.

**F. Contractor Waiver of Liability Where Provider and Beneficiary Are Without Fault With Respect to Overpayment for Medically Unnecessary or Custodial Services (§1879 of the Act).**--When both the provider and the beneficiary are without fault with respect to an overpayment for medically unnecessary or custodial services, waive liability for the overpayment, i.e., take no action to recover the overpayment. This provision forms the basis for the policies and instructions in §§3708, 3708.3 and 3709.2C. (Refer to §§3432ff. for instructions regarding implementation of §1879.)

**G. HCFA or SSA Waiver of Recovery from Beneficiary (§1870(c) of the Act).**--If a beneficiary is liable for an incorrect payment, HCFA or SSA may waive recovery if the beneficiary was without fault with respect to the overpayment and recovery would defeat the purposes of Title II or Title XVIII of the Social Security Act (i.e., cause financial hardship) or would be against equity and good conscience. (Where an overpayment is discovered subsequent to the third calendar year after the year the payment was made, recovery is deemed against equity and good conscience if the beneficiary was without fault.) This section forms the basis for policies and instructions in §§3708.4, 3708.6, 3709.3, and 3709.5.

**3707.1 Time Limits on Recovery of Overpayments.**--There are two time limitations to consider in deciding whether to recover an overpayment. Do not recover an overpayment not reopened within 4 years (48 months) after the date of payment unless the case involves fraud or similar fault. (See §§3709.2B and 3799ff.) Do not recover an overpayment discovered later than 3 full calendar years after the year of payment unless there is evidence that the provider or beneficiary was at fault with respect to the overpayment. (See §3708.4.)